



OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA  
BOARD OF CEMETERIANS

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IN THE MATTER OF

Restlawn Memory Gardens LLC

Respondent.

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Case Number: ENCE-0391

**NOTICE OF OPPORTUNITY FOR HEARING**

**TO: Restlawn Memory Gardens LLC  
2098 Mooty Bridge Road  
LaGrange, Georgia 30240**

**PLEASE TAKE NOTICE** that the Secretary of State of the State of Georgia ("Secretary") by and through the State Board of Cemeterians ("Board") intends to issue the Proposed Order ("Order") attached hereto to **Restlawn Memory Gardens LLC** ("Respondent," "RMG," or "Cemetery") pursuant to the Georgia Cemetery and Funeral Services Act of 2000, O.C.G.A. § 10-14-1, *et seq.* ("Act"). The Order is being proposed based on information known to the Secretary at the time this Notice of Opportunity for Hearing was issued and may be amended or modified at any time prior to its entry.

Pursuant to O.C.G.A. § 10-14-23, Respondent is hereby notified that within ten (10) days after receipt of a request for a hearing in a record from Respondent, this matter will be scheduled

for a hearing unless another date and time is otherwise agreed to by the parties. If Respondent does not request a hearing and none is ordered by the Secretary within ten (10) days after the date of service of this Order, this Order will become final as to Respondent by operation of law. If a hearing is requested or ordered, the Secretary, after notice of opportunity for hearing to Respondent, may modify or vacate this Order or extend it until final determination.

**1. GROUNDS.** The grounds for the issuance of this Order are that Respondent engaged in conduct in violation of O.C.G.A. § 10-14-17.

**2. REQUEST FOR HEARING.** Pursuant to O.C.G.A. § 10-14-23, this Order may be entered by the Secretary unless Respondent requests a hearing within ten (10) days of receipt of this notice. A request for hearing may be delivered to the attention of Noula Zaharis, Director, Office of the Secretary of State, Securities and Charities Division, 2 Martin Luther King Jr. Dr., SE, Suite 317 West Tower, Atlanta, GA 30334 or by electronic mail at [nzaharis@sos.ga.gov](mailto:nzaharis@sos.ga.gov).

**3. PROCEDURE FOR REQUESTING A HEARING.** If the Respondent requests a hearing, the request for hearing must be in writing and contain the following information as required by Rule 590-3-1-.05 of the Rules of Office of Secretary of State (hereinafter, the "Rule" or "Rules"):

- a title which indicates the nature of the proceedings;
- the complete name and address of the person or persons on whose behalf the request is filed;
- the name and address of all other persons known to have a legal interest in the proceedings;
- if the person or persons on whose behalf the request is filed are represented by counsel, the name and address of counsel;
- a clear and concise statement of the facts upon which the contested case arises;
- a prayer setting forth the relief sought; and
- a statement of the grounds upon which the person contends he is entitled to the relief sought.

**4. SCHEDULING OF HEARING.** If requested, a hearing will be scheduled before a Hearing Officer appointed by the Secretary, the ultimate decision maker in this matter, in no less than fifteen (15) days but not earlier than five (5) days after the request is made, unless otherwise agreed to by the parties.

**5. ISSUES TO BE ADDRESSED.** If a hearing is requested, the issues to be addressed are set forth in the attached Order that is incorporated herein by reference and made a part of this Notice of Opportunity for Hearing.

**6. CONTESTED CASES.** This is a contested case proceeding and pursuant to the Rules it shall be conducted as expeditiously as possible, with regard to the rights of the parties, and in a manner to enable the parties to obtain relevant information needed for preparation of the case to the extent that such disclosure is authorized or required by law.

**7. LEGAL AUTHORITY AND JURISDICTION.** This Notice of Opportunity for Hearing is issued pursuant to O.C.G.A. § 43-17-23, Rule 590-3-1-.05, and O.C.G.A. § 50-13-1 *et seq.* (The Georgia Administrative Procedure Act).

**8. INFORMAL CONFERENCE.** Respondent may request an informal conference with the Division Director pursuant to Rule 590-3-1-.05. The receipt of a written request for an informal conference will toll, until the date that such conference is scheduled, the running of the time for requesting and setting a hearing. A request for hearing that does not contain the required information as outlined above will be treated as a request for an informal conference. Further information regarding an informal conference may be obtained by contacting Noula Zaharis at (470) 312-2787 or [nzaharis@sos.ga.gov](mailto:nzaharis@sos.ga.gov).


**9. RIGHTS OF PARTIES.** The parties to this matter shall have all of the rights provided for

in the Act, the Rules and the Georgia Administrative Procedure Act, including but not limited to the following:

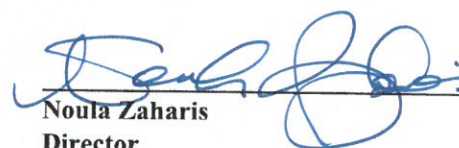
- To subpoena witnesses and documentary evidence;
- To secure testimony by deposition or interrogatories if authorized or directed by the Hearing Officer;
- To be represented by legal counsel; and
- To respond and present evidence on all issues involved.

SO ORDERED this 20<sup>th</sup> day of March 2021.

**BOARD OF CEMETERIANS**

By:   
Richard Parker  
Chairman

**BRAD RAFFENSPERGER  
SECRETARY OF STATE**

By:   
Noula Zaharis  
Director  
Securities and Charities Division



**OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA  
BOARD OF CEMETERIANS**

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**IN THE MATTER OF**

**Restlawn Memory Gardens LLC**

**Respondent.**

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**Case Number: ENCE-0391**

**ORDER TO CEASE AND DESIST AND IMPOSITION OF CIVIL PENALTY**

This matter comes before the Secretary of State of the State of Georgia ("Secretary") by and through the Board of Cemeterians ("Board") pursuant to the authority granted in O.C.G.A. § 10-14-14, *et seq.* of the Georgia Cemetery and Funeral Services Act of 2000, as amended ("Act"). Whereas, the Secretary undertook an investigation into the acts and practices of Restlawn Memory Gardens LLC. ("RMG," "Respondent," or "Cemetery").

Based on the investigation, the Secretary has found grounds to conclude that Respondent may have engaged in acts or practices constituting violations of the Act. The Secretary has determined it is in the public interest to issue this Order.

Based upon information obtained during the investigation, the Secretary finds as follows:

**FINDINGS OF FACT**

1. RMG is located at 2098 Mooty Bridge Road, LaGrange, Georgia 30240.
2. RMG is registered with the Securities and Charities Division ("Division") as a Perpetual Care Cemetery pursuant to O.C.G.A. § 10-14-3(28). RMG has been registered with the Division since August 6, 2011.

3. RMG lists its Perpetual Care Trust address as 3600 Horizon Blvd, Suite, 100, Feasterville Trevose, Pennsylvania 19053. RMG lists Diana Burkholtz as its Owner/Manager, as well as its Director of Trust.

4. On April 21, 2021, the Securities and Charities Division (“Division”) sent an inspector from the Secretary’s office to inspect the site and report on the condition of RMG’s care and maintenance. The inspector took three hundred forty-three (343) photos (“Photo(s)”) of the Cemetery and submitted a questionnaire to RMG to address the inspector’s findings. The inspector’s findings are described in detail below.

*a. Grounds*

5. The inspector found the grounds in poor condition. The inspector reported many bare patches of grass, which contained little to no sign of treatment, such as the presence of new grass seed, sod, or hay. The inspector also reported that the Cemetery’s grass needed cutting and that weeds were present throughout the grounds. Further, trees and shrubs placed throughout the Cemetery that appeared to be unmanicured and in need of landscaping.

6. The inspector also reported a stone walkway in the middle of RMG’s grounds that had become overgrown with grass and weeds. The inspector inquired an employee of RMG about the condition of the walkway, to which she responded the Cemetery decided to no longer utilize the walkway. The inspector, however, observed visitors to the Cemetery using the walkway.

7. The inspector also reported damage caused by vehicles and heavy equipment driving across the grounds. The inspector observed rutted areas in the grounds, which he stated appeared to have been crated by the stabilizer arm of a backhoe. The inspector reported other areas of the grounds bearing track marks, indicating damage caused by heavy equipment traveling over the grounds.

8. The inspector observed trash littering the grounds, particularly along the areas of the grounds lining the woods.

9. The Photos provided by the inspector support his findings and provided one hundred eleven (111) Photos of the grounds. Photos that show large areas of barren and bare grass, which contain no suggestion of restorative efforts, such as grass seed, hay, or sod. In fact, several Photos show areas surrounding graves that are almost completely barren.

10. Multiple Photos show large areas of damaged grounds bearing track marks, indicating that RMG allowed heavy machinery to cut across the grass rather than travel along the Cemetery’s road system. Many of these track marks show no indication of grass regrowing, and Photos do not



show evidence of reparative efforts aimed at restoring damage caused by tracks. Several Photos shows these track marks running through graves and markers.

11. The inspector provided six (6) Photos that show trash littered along the edges of the Cemetery's grounds. This trash includes discarded flowers and plastic bags.

12. Other photos show grass that has become overgrown and numerous weeds. Further, Photos show ornamental bushes that are overgrown due to neglect. Lastly, the inspector provided eight (8) Photos that show a large walkway through the middle of the grounds that have become overgrown with grass to the point that the walkway is almost entirely overgrown with grass, suggesting that the maintenance of the walkway had been neglected for an extended period of time.

#### ***b. Graves***

13. The inspector observed that gravesites were in fair condition. The inspector noted many graves covered in fill dirt with no grass growing, but with fill dirt that was mostly comprised of soil with few rocks.

14. The Photos reflect the inspector's findings and show that fill dirt covering graves are comprised mostly of soil with few rocks. Many of these graves, however, are not fresh graves and do not show any indication of grass growing or of efforts to grow grass, such as grass seed, hay, or sod. In fact, Photos show no less than two (2) graves from 2020, one (1) grave from 2015, one (1) grave from 2014, one (1) grave from 1999, and one (1) grave from 1989 covered with grassless topsoil with no evidence of any restorative efforts, such as laying grass seed or sod, indicating extensive neglect for the care and maintenance of graves.

#### ***c. Headstones, Markers, and Monuments***

15. The inspector observed numerous issues with the conditions of headstones, markers, and monuments. The inspector observed that many headstones and markers were unlevel, indicating that they were in the process of sinking.

16. The Inspector also observed that many markers were obscured by overgrown with grass, weeds and ant beds, describing these occurrences as a "rampant issue."

17. The inspector also reported damage to mausoleums from staining and noted numerous uninstalled markers on the Cemetery's grounds.

18. Photos provided to the Division support the inspector's findings. The inspector provided ninety (90) Photos display unlevel markers in the process of sinking. For example, one (1) Photo

shows sinking around a marker that is so severe that not only is the entire bottom of the marker exposed, but a noticeable gap beneath the marker is also visible.

19. Other Photos demonstrate markers and headstones that are damaged or in a state of disrepair. Many Photos show markers that broken down the middle with the name plates on top bent and curled as if crushed by a heavy object. Indeed, several photos show track marks leading to markers or over markers, indicating that RMG allowed vehicles or heavy equipment to drive directly over markers.

20. Other Photos show markers that appear to be soiled or obscured due to the negligence of RMG's maintenance staff. Many photos contain markers that are caked with dirt and mud so that the names on them are not fully legible. At least two (2) photos show markers that are so obscured by dirt and mud that the names on the markers are almost entirely obscured.

#### ***d. Roadways***

21. The inspector reported a number of issues with the condition of the Cemetery's road system. The inspector observed cracks along the sides of the roads out of which grew grass and weeds. The inspector also observed cracks in the roads throughout the road system and damage throughout the road system's sidewalks. Lastly, the inspector observed two (2) roadside storm drains out of which trees and grass grew.

22. The Photos support the inspector's findings. Throughout the Cemetery, roads show signs of time-related damage, such as stress fractures and erosion. The Photos also show one (1) small pothole in the road system that has not been addressed with any reparative measures, such as gravel, quick-drying cement, or new asphalt.

23. Other Photos show numerous weeds growing in cracks in the roadways and sidewalks, particularly along the sides of the roads.

24. Two (2) Photos show two (2) different storm drains that show vegetation growing out from their grates, indicating that the storm drains are at least partially blocked, and demonstrating neglect of maintenance of the Cemetery's storm runoff system, which could result in damage from standing water due to poor drainage.

#### ***e. Questionnaire***

25. As a part of his inspection, the inspector submitted a questionnaire to RMG prepared by Division. The questionnaire requested information regarding what systems, if any, RMG has in



place for the purpose of processing complaints by the Cemetery's visitors as well as what systems, if any, the Cemetery uses for logging and addressing care and maintenance work orders.

26. On May 4, 2021, RMG provided a sworn statement in response to the Division's questionnaire. RMG stated that it does not have a written procedure for addressing customer complaints. According to RMG, complaints are received by family service counselors or administrators who meet with the family complaining to fix the problem. If works needs to be done, the service counselor or administrator will write up a work order which is logged in the RMG system. If materials are present on the property, RMG states the complaint is addressed within 3-7 work days. If the necessary materials are not present on the property, RMG states the issue is addressed within 3-7 days of the delivery of those materials to the Cemetery. Once the work is completed, maintenance signs the work order and it is returned to the family service counselor or administrator who received the complaint, who then contacts the original complainant to inform them that their concern has been addressed. A copy of this signed order is then saved in the family's file and the RMG system log is updated to show the work is complete.

27. In response to the Cemetery's current care and maintenance conditions, RMG stated that it is in the process of leveling markers, replacing markers with broken bases, and poisoning ant hills. Further, RMG states that is has cleaned up mud on the roads and is taking bids to repair the roads. RMG stated that it will spray for grass growing in the sidewalk and for weeds throughout the Cemetery and further stated that this process will be done regularly going forward.

28. RMG stated that all bare graves will be sodded by May 6, 2021 and that all bushes will be trimmed by the end of that week and that the Cemetery is cleaning up any and all trash "as soon as it finds it." RMG concluded its statement by stating, "[m]aintenance at the Cemetery is a continuous process and the Cemetery will continue to work diligently to address any issues that arise as soon as possible."

### **CONCLUSIONS OF LAW**

29. Paragraphs 1 through 28 are incorporated by reference as though fully set forth herein.

30. The Secretary has jurisdiction over this matter pursuant to the Act. *See* O.G.C.A. §§ 10-14-14 and 10-14-19.

31. Pursuant to O.C.G.A. § 10-14-19(a)(1) of the Act, if the Secretary determines:

that any person has engaged in, or is engaging in, or is about to engage in any act or practice or transaction which is prohibited by this chapter or by any rule, regulation, or order of the Secretary of State promulgated or issued pursuant to

any Code section of this chapter or which is declared to be unlawful under this chapter, the Secretary of State may...[i]ssue an order, if he or she deems it to be appropriate in the public interest or for the protection of consumers, prohibiting such person from continuing such act, practice, or transaction, subject to the right of such person to a hearing as provided in Code Section 10-14-23.

32. Pursuant to O.C.G.A. § 10-14-19(f) the Secretary is authorized to impose a “civil penalty not to exceed \$10,000.00 for a single violation and not exceeding \$100,000.00 for multiple violations in a single proceeding or a series of related proceedings.”

33. Respondent RMG is registered with the Division as a perpetual care cemetery pursuant to O.C.G.A. § 10-14-4. Thus, RMG is subject to discipline under the Act.

34. Pursuant to O.C.G.A. § 10-14-17(i), “[i]t shall be unlawful for any owner or operator of a perpetual care cemetery to fail to provide care and maintenance for the cemetery.”

35. Pursuant to O.C.G.A. § 10-14-3(6):

“Care and maintenance” means the perpetual process of keeping a cemetery and its lots, graves, grounds, landscaping, roads, paths, parking lots, fences, mausoleums columbaria, vaults, crypts, utilities, and other improvements, structures, and embellishments in a well cared for and dignified condition, so that the cemetery does not become a nuisance or place of reproach and desolation in the community. As specified in the rules of the Secretary of State, care and maintenance may include, but is not limited to, any or all of the following activities: mowing the grass at reasonable intervals; raking and clearing the grave spaces and adjacent areas; pruning of shrubs and trees; suppression of weeds and exotic flora; and maintenance, upkeep, and repair of drains, water lines, roads, buildings, and other improvements. Care and maintenance may include, but is not limited to, reasonable overhead expenses necessary for such purposes, including maintenance of machinery, tools, and equipment used for such purposes. Care and maintenance may also include repair or restoration of improvements necessary or desirable as a result of wear, deterioration, accident, damage, or destruction. Care and maintenance does not include expenses for the construction and development of new grave spaces or interment structures to be sold to the public.

36. Respondent RMG has engaged in a persisting and systemic failure to provide for care and maintenance for the Cemetery. RMG has not provided landscaping for the Cemetery grounds, including failing to properly treat the grounds for weeds and failing to properly mend barren areas in the grass. RMG has failed to take the proper measures to correct these care and maintenance issues.

37. RMG has further failed to provide for care and maintenance for the Cemetery by failing to repair and mend the ground from damage caused by allowing vehicles and other heavy machinery to drive across its grounds. RMG has failed to take the proper measures to correct these care and maintenance issues.

38. RMG has further failed to provide for care and maintenance for the Cemetery by failing to maintain the Cemetery's road system and for its failure to repair potholes, fissures, and other deterioration and erosion in the road system. RMG has failed to take the proper measures to correct these care and maintenance issues.

39. RMG has further failed to provide for care and maintenance for the Cemetery by failing to keep its graves in a dignified condition by allowing graves to sink and become bare and has failed to provide remedial maintenance to return graves to a dignified condition. RMG has failed to take the proper measures to correct these care and maintenance issues.

40. RMG has further failed to provide for care and maintenance for the Cemetery by failing to repair damage caused to markers and headstones by RMG's care and maintenance staff. RMG has failed to take the proper measures to correct these care and maintenance issues.

41. RMG's response to the Division's questionnaire does assuage RMG's failure to provide for care and maintenance. On the contrary, RMG's questionnaire responses merely underscores the degree to which it has neglect to provide minimum care and maintenance to the Cemetery. RMG admits to not having written policy in place for the purpose of addressing customer complaints, and its assurance that all customer complaints are "addressed as soon as possible" rings hollow in light of poor state of the Cemetery's grounds, graves, and roads.

42. Further, RMG's statement that it is in the process of correcting current issues in the Cemetery's care and maintenance seem insincere in light of RMG history of care and maintenance neglect, and RMG appears to be addressing these issues now only after the Division ordered an inspection of their grounds. As such, RMG has provided the Division and the Board with no reason to believe that it will not continue to ignore its care and maintenance obligation once RMG believes it is no longer under the gaze of the Board's scrutiny.

43. These activities described in paragraphs 33 through 42 are violations of O.C.G.A. § 10-14-17(i). These violations are actionable events pursuant to O.C.G.A. § 10-14-19; therefore, Respondent is subject to discipline.

## ORDER

**WHEREFORE**, by the authority vested in me as the Secretary of State for the State of Georgia, **IT IS HEREBY ORDERED**:

1. That **RESLAWN MEMORY GARDENS LLC** immediately **CEASE AND DESIST** all violations of the Georgia Cemetery and Funeral Services Act of 2000, as amended.
2. **RESLAWN MEMORY GARDENS LLC** pay a **civil penalty** in the amount of one hundred thousand dollars (\$100,000.00).
3. **RESLAWN MEMORY GARDENS LLC** remit payment of the Secretary's **cost of investigation** in the amount of one thousand five dollars (\$1,500.00) to the Secretary due within thirty (30) days of the entry of a Final Order by the Secretary.

The entry of the Order is deemed to be in the public interest and shall not be deemed to constitute findings or conclusions relating to other persons unrelated to Respondent and shall not be deemed to be a waiver or estoppel on the part of the Secretary from proceeding in individual actions against any person who may have violated the Act or any transactions not specifically referred to herein or not known to the Secretary at the time this Order was issued.

**SO ORDERED** this \_\_\_\_ day of \_\_\_\_ 2021.

**BOARD OF CEMETERIANS**

**BRAD RAFFENSPERGER**  
**SECRETARY OF STATE**

By: \_\_\_\_\_  
**Richard Parker**  
**Chairman**

By: \_\_\_\_\_  
**Noula Zaharis**  
**Director**  
**Securities and Charities Division**